

## UNITED STATES DISTRICT COURT

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

for the

Central Division, District of

NOV 05 2019

BY D. MARK JONES, CLERK

DEPUTY CLERK

In the Matter of the Search of )

(Briefly describe the property to be searched )

or identify the person by name and address )

RICHARD DANIEL GARCIA (DOB: 24APR1989) a/k/a  
 Zachary Thomas Mendez and Zechariah Trujillo--Buccal  
 swab samples in order to obtain and analyze the  
 subject's deoxyribonucleic acid ["DNA"]. )

Case No. 2:19-MJ- 72 -EJF

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that there is now concealed on the following person or property located in the Central Division District of Utah (identify the person or describe property to be searched and give its location):

RICHARD DANIEL GARCIA (DOB: 24APR1989) a/k/a Zachary Thomas Mendez and  
 Zechariah Trujillo,

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized):

Buccal swab samples from RICHARD DANIEL GARCIA (DOB: 24APR1989) a/k/a Zachary Thomas Mendez and Zechariah Trujillo are requested in order to obtain and analyze the subject's deoxyribonucleic acid ["DNA"].

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):


- ☒ evidence of a crime;  
 contraband, fruits of crime, or other items illegally possessed;  
 property designed for use, intended for use, or used in committing a crime;  
 a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of 18 U.S.C. § 922(g)(1&3), and the application is based on these facts:

See AFFIDAVIT ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN

- ☒ Continued on the attached sheet.

Delayed notice of \_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

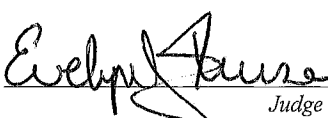
  
 Applicant's signature

BRITTNEY A. MCINTYRE, TFO-ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 11/05/2019

  
 Judge's signature

City and state: Salt Lake City, Utah

EVELYN J. FURSE, United States Magistrate Judge

Printed name and title

JOHN W. HUBER, United States Attorney (#7226)

MARK K. VINCENT, Assistant United States Attorney (#5357)

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FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

NOV 05 2019

D. MARK JONES, CLERK  
BY \_\_\_\_\_  
DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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IN THE MATTER OF THE SEARCH  
WARRANT RE:

Buccal swab samples from  
RICHARD DANIEL GARCIA  
a/k/a Zachary Thomas Mendez and  
Zechariah Trujillo, are requested in  
order to obtain and analyze the  
subject's deoxyribonucleic acid  
["DNA"].

Case # 2:19-MJ- 762 -EJF

AFFIDAVIT IN SUPPORT OF AN  
APPLICATION UNDER RULE 41 FOR  
A WARRANT TO SEIZE AND  
SEARCH.

(Magistrate Judge Evelyn J. Furse)

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**AFFIDAVIT IN SUPPORT OF SEARCH WARRANT**

I, Brittney A. McIntyre, a Task Force Officer with the Bureau of Alcohol,  
Tobacco, Firearms and Explosives ["ATF"], being duly sworn, depose and state as  
follows:

1. I have served as an agent for Adult Probation and Parole for over 18 years; and  
served as a Task Force Officer with ATF for 24 months. During that time I have

investigated and assisted in the investigation of dozens of violations of the laws of the United States.

2. As a federal agent, I am authorized to investigate violations of laws of the United States and am a law enforcement officer with authority to execute warrants issued under the authority of the United States.

3. The statements in this affidavit are based in part on information provided by law enforcement officers assigned to other law enforcement agencies, including Unified Police Department, Salt Lake City, Utah, and on my experience and background as a Task Force Officer for the ATF. Since this affidavit is being submitted for the limited purpose of securing a search and seizure warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to obtain buccal swab samples from RICHARD DANIEL GARCIA (hereinafter "GARCIA") a/k/a Zachary Thomas Mendez and Zechariah Trujillo, with a date of birth April 24, 1989. The buccal swab samples are requested in order to obtain and analyze the subject's deoxyribonucleic acid ["DNA"] for comparison. The following information is derived from discussions with individuals and investigators who have personal knowledge of the matters and events described herein.

4. On June 12, 2019, Midvale Street Crimes Unit received information fugitive GARCIA would be in the area of Holladay Hills Apartments at 3714 South Highland Drive, Millcreek, Utah, in a silver Cadillac sedan. A records check confirmed GARCIA

was wanted for Aggravated Robbery. GARCIA is a restricted person due to felony convictions.

5. Detectives observed a Cadillac pull into a covered parking stall and could see a male driver, which matched GARCIA'S physical description.

6. A felony stop was conducted due to GARCIA'S violent history and information he was armed. Detective Winslow activated her emergency lights and issued commands to the driver to exit the vehicle, which the driver did not comply. Detective Winslow could see the driver moving around within the vehicle and was unsure if he was concealing contraband or reaching for a weapon due to the dark tint on the windows of the vehicle. The driver finally complied and was identified as Richard GARCIA.

7. GARCIA refused to place his hands on top of his head and continued facing toward Detective Winslow with his back bladed out of her view. GARCIA'S refusal to turn around and comply concerned Detective Winslow that he was hiding a weapon in his waistband. GARCIA was yelling expletives and stating his intentions not to comply, saying he hadn't done anything wrong. GARCIA continued facing toward Detective Winslow as if he was about to fight or resist arrest. Detective Winslow transitioned to her Taser and pointed it at GARCIA'S torso. GARCIA continued disregarding multiple commands to put his hands on his head and turn around, eventually screaming something to the effect of, "I'm not going to fucking do it." Detective Winslow deployed her ECD which had the desired incapacitating effect.

8. GARCIA was taken into custody. A search of his person revealed .8 grams of methamphetamine and Alprazolam prescription pills.

9. Jessica Martinez, who is on parole, was in the front passenger seat. She was safely taken into custody. Jessica told Detective Winslow the vehicle belonged to her. Detective Winslow asked Jessica if there was anything of concern in the vehicle. Jessica hesitated stating she didn't have anything but she wasn't sure if Richard did.

10. Two cell phones and a gray and black backpack which contained the following items were located in the front passenger seat:

- A Glock handgun with an extended 30 round magazine;
- A Beretta handgun with two magazines;
- .45 caliber round;
- Ziploc baggie containing 45 prescription Buprenorphine Hydrochloride 8 mg pills (schedule III);
- Salt Lake County Sheriff's fund check with payee Hinlea Bredeson;
- Four Lorazepam prescription pills (IV); and
- Drug paraphernalia

The Glock handgun returned as stolen taken on April 8, 2019. Both firearms were not manufactured in Utah and, therefore, have affected commerce.


11. GARCIA was advised of his Constitutional Rights per *Miranda*. GARCIA indicated that he understood his Rights but did not wish to speak with police. GARCIA then began asking police if he could talk to his wife and kiss her goodbye. A detective responded that GARCIA's request was an odd request since he was essentially allowing his wife to take the fall for the firearms because they were in her vehicle. GARCIA then exclaimed, "They're mine! It's all mine." GARCIA was then asked if he now wished to speak with police and he said that he did. GARCIA was asked where he got the handguns. GARCIA claimed he bought them on Utah Gun Exchange and met someone in

person selling the guns. He denied having a third party buy the guns for him. GARCIA acknowledged he is a user of methamphetamine and heroin but denied selling it. GARCIA also acknowledged that he has previous felony convictions and, therefore, is prohibited from possessing firearms.


12. Based on all of the above, Affiant submits that there is probable cause to believe that the firearms and ammunition taken into custody on June 12, 2019, by the Unified Police Department belong to GARCIA. Based on affiant's experience, GARCIA likely left DNA trace evidence on the firearms and ammunition. DNA traces are frequently left behind from sweat, skin cell/flakes or other organic material deposited through touching or otherwise transferring DNA traces to firearms and ammunition. After obtaining a DNA profile from the court ordered sample from GARCIA, the DNA profile will then be compared to any profiles obtained from DNA trace evidence found in the seized firearms and ammunition. Based on the aforementioned facts, Affiant submits that there is probable cause to believe that now concealed the namely DNA of GARCIA in the form of cellular material located in inner mouth/cheek, evidence or fruits of the crime related to the investigation of felon in possession of a firearm/ammunition, in violation of 18 U.S.C. § 922(g)(1), and evidence or fruits of the crime related to the investigation of drug user or addict in possession of a firearm/ammunition, in violation of 18 U.S.C. § 922(g)(3). It is requested that authorization be granted to ATF TFO Brittney McIntyre or her designee to extract cellular material located in the inner mouth/cheek of RICHARD DANIEL GARCIA via a buccal swabbing.

13. The foregoing information is true and correct to the best of my knowledge and belief.

DATED this 5 day of NOVEMBER, 2019.

  
\_\_\_\_\_  
BRITTNEY A. MCINTYRE  
Task Force Officer, ATF

Subscribed and sworn to before me on this 5<sup>th</sup> day of NOVEMBER, 2019.

  
\_\_\_\_\_  
EVELYN L. FURSE, Magistrate Judge  
United States District Court

JOHN W. HUBER  
United States Attorney

  
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MARK K. VINCENT  
Assistant United States Attorney